

Applicants : Peter D. Kwong et al.
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designated states and regions. Therefore, Mr. White believed that Dr. Weinberger had instructed that the PCT application was not to enter the U.S. national stage, whereas Dr. Weinberger never intended to give any instruction that would result in abandonment of the application in the United States.

11. Pursuant to Mr. White's understanding of Dr. Weinberger's instructions, he did not cause the PCT application to enter the national stage or regional stage anywhere, including the United States on or before May 10, 2000; and as a result of this failure to enter the U.S. national stage, the application became abandoned in the United States.
12. The abandonment was unintentional, because at no time wither before, on, or after the critical date of May 10, 2000, did Columbia University or Dr. Weinberger intend that the application should be abandoned in the United States or that any step necessary to prevent abandonment should not be taken; nor did Mr. White or Cooper & Dunham LLP even intend to cause or permit the application to become abandoned in any state or region absent instructions to do so from Columbia University or Dr. Weinberger. The abandonment occurred because Dr. Weinberger gave Cooper & Dunham LLP an instruction which, inadvertently and directly contrary to her intent, was misunderstood (and therefore implemented) by Mr. White as an instruction not to enter the U.S. national stage.
13. Indeed the abandonment was not only unintentional, it was unavoidable, in that it arose from inadvertent